

CC: financial, Presl, Castanzo

OFFICE OF THE CLERK

MARCIA M. WALDRON

CLERK

## UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

21400 UNITED STATES COURTHOUSE

601 MARKET STREET

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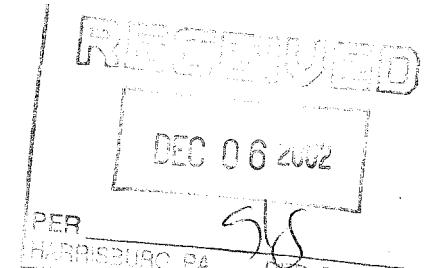
215-597-2995

Middle (Harrisburg) Clerk of District Court  
(District)Date 11/29/02Carter v. Horn  
(Caption)C. of A. No. 01-1506John Carter  
(Appellants)Civil 00-cv-00834  
(D.C. No.)J. Caldwell

Enclosures:

11/29/02  
(Date)

Certified copy of C. of A. Order by the Court

Released (Record) (Supplemental Record - First - Second - Third)Copy of this form to acknowledge receipt and return to C. of A.Record not released at this time until appeal(s) closed at No. (s)Please forward Certified List in Lieu of Record to this office.The certified copy of order issued as the mandate on  
is recalled.

Maureen O (267)-299-4931  
Quality Assurance Analyst Telephone Number

Receipt Acknowledge:

Seong M. Waldron  
(Name)12-6-02  
(Date)Rev. 3/13/00  
Appeals (Certified List in Lieu of Record)

(23  
PB)

DPS-235

July 18, 2002

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUITC.A. No. 01-1506

JOHN CARTER, ET AL.  
 VS.  
 MARTIN HORN, ET AL.  
 (M.D. PA. CIV. NO. 00-CV- 00834)

FILED  
 HARRISBURG, PA

DEC 6 2002

MARY E. D'ANDREA, CLERK  
 Per JES

Present: NYGAARD, ROTH and BARRY, CIRCUIT JUDGES

Submitted are:

- (1) Appellant's document titled "Motion to Vacate", which the Court may wish to treat as a Motion to Reopen; and
- (2) Appellant's motion for leave to appeal in forma pauperis and affidavit in support thereof, pursuant to Rule 24, Federal Rules of Appellate Procedure, which includes a motion for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

MMW/WMS/zm/kb

ORDER

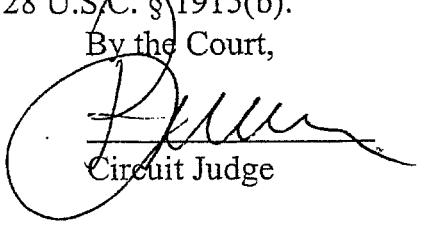
The motion to reopen the appeal is granted. See LAR Misc. 107.2. The motion to proceed in forma pauperis is granted. We find that the District Court did not err in dismissing the complaint pursuant to 28 U.S.C. §1997e(a) for failure to exhaust administrative remedies. Accordingly, this appeal is dismissed as frivolous pursuant to 28 U.S.C. §1915(e)(2)(B)(i) and the motion for appointment of counsel is dismissed as moot. The Clerk shall assess fees. 28 U.S.C. §1915(b).

A TRUE COPY:



ACTING CLERK

Dated: NOV 29 2002


  
Wolfe: IC  
BAM

By the Court,

Circuit Judge